



Vermont Cannabis Expungement and Penalty Reduction Summary

S. 234 passed the Senate in a voice vote on September 22, 2020. Gov. Phil Scott signed it into law on October 7, 2020.

Here is a summary of the cannabis-related provisions of S. 234:

Automatic Expungement

- The Criminal Division of the Superior Court would be required to order the expungement of all criminal justice records — including arrest, custody, and disposition — for violations of 18 V.S.A. § 4230(a) (possession or cultivation of modest amounts of cannabis) prior to January 1, 2021. The automatic expungement process must be completed by January 1, 2022.
 - 18 V.S.A. § 4230(a) currently applies to anything under the following amounts: two ounces of cannabis, 10 grams of hashish, four mature plants, and eight immature plants. Prior to 2018, it applied to the same amounts of cannabis and hashish and three total plants.
 - The court will notify the Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a relevant record. The VCIC will notify the FBI's National Crime Information Center of the expungement.
 - If someone inquires about an expunged record, the entity would respond, "NO RECORD EXISTS."
 - Those whose records have been expunged are to be treated as if they were never arrested, convicted, or sentenced for the offense.
 - Everyone whose cannabis record is automatically expunged will be sent a certificate saying the offense has been decriminalized and warrants the order and the annulment of the record. The notice of expungement will be sent to the individual's last known address.
 - Beginning on January 1, 2021, anyone with a simple possession arrest under 18 V.S.A. § 4230(a)(1) is not required to acknowledge — and may deny — the existence of the record in any "application for employment, license, or civil right or privilege or in an appearance as a witness in any proceeding or hearing." They may also seek expungement by petition prior to the court completing its automatic expungement process.
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Decriminalizes Modestly Exceeding the Adult-Use Possession Limit

- Decriminalizes possession of almost twice the legal limit for adults
 - Possessing up to one ounce of cannabis is already legal for adults 21 and older. Under S. 234, under two ounces would be decriminalized.

- Up to five grams of hashish is already legal for adults. Under S. 234, amounts under 10 grams of hashish would be decriminalized.
 - Decriminalizes one extra mature plant and two extra immature plants
 - Cultivation of two mature plants is already legal for adults 21 and older. Under S. 234, a third mature plant would be decriminalized.
 - Possession of four immature plants is already legal for adults. S. 234 would decriminalize a fifth and sixth immature plant.
 - The penalties for the decriminalized amounts would be a civil fine of:
 - Up to \$100 for a first offense
 - Up to \$200 for a second offense
 - Up to \$500 for a subsequent offense
 - Increases the thresholds of cannabis that trigger escalating penalties, thus reducing penalties for greater quantities.
 - Under current law, first-offense possession of more than one ounce of cannabis but less than two ounces (or between five and 10 grams of hashish) carries up to six months in jail, up to a \$500 fine, or both. S. 234 increases the threshold for those penalties to between two and eight ounces of cannabis (or between 10 grams and 1.4 ounces of hashish).
 - Under current law, possession of between two ounces and a pound of cannabis (or between 10 grams and 2.8 ounces of hashish) carries up to three years in prison, a fine of up to \$10,000, or both. This would increase the amount to trigger those penalties to eight ounces of cannabis (or 1.4 ounces or more of hashish) or more.
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Select Other Provisions

- Changes references to “marijuana” to “cannabis” in Vermont’s laws.
 - Adds a minimum age of 16 for civil offenses of underage possession of cannabis (and using a fake ID related to alcohol). Creates a separate delinquency section for those under 16 years of age. Provides that these youthful offenders may participate in the Court Diversion Program.
 - Renames the Youth Substance Abuse Safety Program “Youth Substance Awareness Safety Program.”
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Effective date: If enacted, S. 234 would take effect on January 1, 2021.
